

EXHIBIT E

GIFT ORDINANCE AND CODE OF ETHICS

San José Municipal Code Chapter 12.08 **PROHIBITION OF GIFTS**

12.08.010 Gifts prohibited.

- A. No officer or designated employee of the City or its Redevelopment Agency shall accept any gift, directly or indirectly, from any person who is subject to the decision-making or recommending authority of such officer or employee, except as specifically provided in this Chapter.
- B. “Person subject to the decision-making or recommending authority” means any individual, firm or entity whose interest or whose employer's or client's interest:
 - 1. Has been materially affected by the work of such officer or employee within the two years prior to the time the gift is given; or
 - 2. In the future could reasonably be foreseen to be materially affected by the work of such officer or employee.

12.08.015 Political Reform Act requirements.

- A. The reporting and disclosure of gifts shall be done in accordance with the requirements of the Political Reform Act, California Government Code Section 81000 et seq., as amended, and the requirements in this Chapter.
- B. The gift limitations and disqualification requirements under the political reform act are applicable to gifts which are not prohibited by this Chapter.

12.08.020 Gift defined.

“Gift” means a voluntary transfer of any thing, service, payment or value to the extent that legal consideration of equal or greater value is not received.

- A. As used in this chapter, the term “gift” includes:
 - 1. Any rebate or discount in the price of any thing of value unless the rebate or discount is made in the regular course of business to members of the public.
 - 2. An officer's or employee's community property interest, if any, in a gift received by that individual's spouse.

3. The provision of travel, including transportation, accommodations and food, except as expressly permitted pursuant to Section 12.08.030.
- B. As used in this chapter, the term “gift” does not include:
1. Campaign contributions which otherwise comply with Title 12 of the San José Municipal Code and which are required to be reported under Chapter 4 of the Political Reform Act of 1974 as amended.
 2. Any devise or inheritance.

12.08.030 Gifts not prohibited.

This Chapter does not prohibit those gifts which strictly fall within the exceptions enumerated herein:

- A. Gifts with a value less than fifty dollars: Gifts, including meals and beverages provided to an officer or employee in a business or social setting, that have a value less than fifty dollars, as long as the total value of all such gifts received from any one donor do not exceed fifty dollars in any calendar year.
- B. Informational material: Informational material such as books, reports, pamphlets, calendars, or periodicals or reimbursement for any such expenses. Informational material does not include provision of educational trips including transportation, accommodation and food.
- C. Hospitality: Gifts of hospitality involving food, beverages or occasional lodging provided to any officer or designated employee by an individual in such individual's primary residence.
- D. Reciprocal gifts: Gifts exchanged between any officer or designated employee and an individual, other than a lobbyist as defined in Chapter 12.12, on holidays, birthdays, baby showers, or similar occasions provided that the presents exchanged are not substantially disproportionate in value.
- E. Panels and seminars: Free admission, food, beverages, and similar nominal benefits provided to an officer or employee at an event at which the officer or employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event.
- F. Admission given by sponsor of an event: Admission to ceremonial, political, civic, cultural or community functions provided by a sponsor of the event for the personal use of the officer or employee. For example,

cultural events include theatrical productions and art exhibits; political events include political fund raisers.

1. Admission to regularly scheduled athletic events, such as tickets to professional sporting events, are not included as an exception to prohibited gifts.
 2. A sponsor of an event shall not include individuals, persons or organizations whose sponsorship of the event is solely limited to funding or monetary support such as the purchase of tickets.
- G. Employment interview - government employer: Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment interview, when the interview is conducted at least one hundred fifty miles from San José and where the situs of the employment will be at least the same distance from the city.
- H. Employment interview - private employer: Transportation, accommodation, food and directly related expenses incurred in connection with an employment interview and a bona fide prospect of employment, when the expenses are advanced or reimbursed to an officer or designated employee by a potential employer, provided that the officer or designated employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.
- I. Authorized travel: Transportation, accommodation, food and directly related expenses for any officer or designated employee which has been authorized by a majority of the city council or redevelopment agency board or which is pursuant to a written city or redevelopment agency policy for intrastate or interstate travel regardless of the source of payment.
- J. City or Redevelopment Agency business: Transportation provided to an officer or designated employee by a contractor or other person doing business with the city or redevelopment agency, provided that such transportation is related to City or Redevelopment Agency business which is within the scope of employment or the duties of such officer or designated employee, and further provided that such transportation is not in excess of one hundred twenty-five miles one way. Nothing in this subsection shall be interpreted to limit the City Council's or Redevelopment Agency Board's discretion to approve travel under subsection I. above.

- K. Flowers: Flowers, plants or balloons which are given on ceremonial occasions, to express condolences or congratulations, or to commemorate special occasions.
- L. Prizes and awards from bona fide competitions: A prize or award received shall be reported as a gift unless the prize or award is received in a bona fide competition not related to the recipient's status as a City or Redevelopment Agency employee. If reported as a gift, the prize or award must comply with the disclosure and disqualification requirements under the Political Reform Act of 1974, as amended.
- M. Wedding gifts: Wedding gifts from an individual other than a lobbyist as defined in Chapter 12.12.

12.08.040 Acceptance of gifts.

A gift shall be deemed to have been accepted except where:

- A. It is not used, and, within thirty days after receipt, is returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- B. It is treated as and remains the property of the City or the Redevelopment Agency.
- C. It is received by an officer or designated employee in his or her official capacity or as a representative of the City or Redevelopment Agency, is reported to the City Council or Agency Board, and the Council or Board approves the retention.

12.08.050 Reporting gifts to domestic partner, spouse and children.

- A. At the time of filing the annual disclosure statement required by the political reform act or any applicable conflict-of-interest code, each City and Redevelopment Agency officer and designated employee shall file a family gift report on a form to be provided by the City Clerk.
- B. The officer or designated employee shall indicate on such report any gifts known to have been accepted during the relevant reporting period by such officer's or employee's domestic partner, spouse and any dependent child where such gifts would have been prohibited to the officer or employee. The value of any such gift and the donor must be disclosed. If the officer or employee has no knowledge of any such gift having been received, the report shall so state.
- C. For purposes of this section, "domestic partner" shall mean any person registered as a domestic partner by an employee with the City of San José.

City of San Jose City Policy Manual Code of Ethics Section 2.01

PURPOSE AND SCOPE

In order to best serve the citizens and customers of the City of San Jose, the elected and appointed officials, and employees of the City must act individually and collectively to create a City government that is responsible, fair, honest and open. City employees and officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.

As stated in the City Charter, "The citizens of San Jose expect and must receive the highest standard of ethics from all those in the public service. City officers and employees must be independent, impartial and responsible in the performance of their duties and accountable to the members of the public."

The purpose of this Code of Ethics is to establish policy and guidelines, reflecting expected values and behaviors for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and employees. Individuals employed by the City under contractual agreement must also observe the provisions of this policy for the term of their contract or as the contract may stipulate.

For additional regulations regarding ethics please refer to Title 12 of the San Jose Municipal Code.

POLICY

Elected and appointed officials and employees of the City of San Jose at all levels are guardians of the public trust. City officials and employees are required to be impartial and responsible in the fulfillment of their duties. The citizens and customers of San Jose expect and must receive the highest standard of ethics from all those in public service, regardless of personal consideration.

1. Responsibilities of Public Service

City officials and employees are obligated to uphold the Constitution of the United States and the Constitution of the State of California and to comply with Federal, State, and local laws and City policies. Recognizing the special responsibilities of serving the City and its citizens and customers, City officials and employees are required to maintain the highest standards of integrity and honesty, and they are expected to treat all members of the public and fellow City employees with respect, courtesy, concern and responsiveness. The conduct of City officials and employees

in both their official and private affairs should be above reproach to assure that their City position is not used for personal gain.

2. General Rule with Respect to Conflicts of Interest

City employees and officials are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

All City officials, officers and employees are prohibited from making, participation in making, or attempting in any way to use his or her official position to influence a City decision in which the employee knows or has reason to know he or she has a financial interest as defined by law. For example, City employees and officials shall not make personal investments nor maintain any direct or indirect interest in enterprises, activities, or entities which they have or have reason to believe may be involved in decisions or recommendations to be made by them or persons under their supervision, or which may create a conflict between their private interests or may impair their independence of judgment in the accomplishment of their official duties. If, however, persons in the public service have financial interests in matters coming before them, or before the department in which they are employed, they shall remove themselves from making, participating in the making, or seeking to influence any decision regarding such matter. Employees who are designated in the City's Conflict of Interest Code, shall file the appropriate disclosure statements required under State Law.

A conflict of interest may arise when dealing with a current or prospective vendor, supplier, or other business. Please refer to Section 3 below and seek guidance from a supervisor or from the Employee Helpline at 535-8150.

3. Acceptance of Favors, Gratuities and Gifts

City employees and officials shall not accept money or other consideration or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts as defined in the City's Gift Ordinance, gratuities or favors of any kind which be perceived or interpreted as an attempt to influence their actions with respect to City business.

This is just a summary of your obligations, for additional information regarding specific regulations on the acceptance of gifts, please refer to the Gift Policy, Section 2.02 of the City Policy Manual. Additionally, if there are any discrepancies between this Gift Policy and Title 12 of the

San Jose Municipal Code, Title 12 of the San Jose Municipal Code supersedes.

4. Use of Confidential Information

City employees and officials shall not use confidential information acquired by or available to them in the course of their employment with the City for personal gain or for personal, non-City business related reasons. City employees and officials shall uphold the public's right to know, and in accordance with the Brown Act, uphold the public's right to know not only the decisions taken, but also the deliberations which shape public policies. Any employee or official, who is aware of a breach of confidentiality, is expected to bring forth that information to the appropriate officials in a timely manner.

5. Use of City Employment and Facilities for Personal Gain

City employees and officials shall not use City time, City funds or City facilities, equipment or supplies for personal use or personal gain or for campaign related political activities, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.

This is just a summary of your obligations, for additional information please refer to the Personal Use of City Equipment Policy and Use of E-Mail, Internet Services and Other Electronic Media, Sections 3.10 and 3.01 of the City Policy Manual.

6. Outside Employment

No employee shall engage in any work, employment or occupation outside City employment, which is detrimental to City service, which prevents or impedes the efficient performance of their duties in City employment, or which is in any way in conflict with their employment with the City. No employee shall engage in any work, employment or occupation outside City employment unless they have notified their department via an Outside Work Permit, and the permit has been approved by the Department Director.

This is just a summary of your obligations, for additional information please refer to the Outside Employment Policy, Section 2.03 of the City Policy Manual.

7. Discussion of Future Employment

All offers or discussions of offers to City employees of future employment outside City service must be reported immediately to the employee's supervisor whenever such discussions occur with, or when such offer is

made by, any person, firm or organization presently dealing with the City concerning matters directly within the employee's current areas of decision-making responsibilities. It shall be within the supervisor's discretionary powers to relieve said employee from further decision-making responsibilities in relationship to said person, firm or organization if he or she determines that the offer of employment or discussions of an offer of employment would impair the employee's independence or judgment or could be construed by others as a bid for favorable treatment.

8. Reporting of Improper Activities

The City of San Jose has a responsibility to conduct its affairs ethically and in compliance with the law. City employees and persons in City service are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor or another management employee within the employee's department. Employees may also call the Employee Helpline at 535-8150 or the Fraud and Audit Hotline at 535-8200.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law.

This is just a summary of your obligations, for additional information please refer to the Non-Retaliation Policy, Section 1.04 of the City Policy Manual.

9. Discrimination and Harassment

City employees and officials shall not, in the performance of their duties, discriminate against any person on the basis of race, color, religion, national origin, ancestry, age, sex, gender, pregnancy, childbirth or related medical condition, sexual orientation, marital status, disability, medical condition and actual or perceived gender identity and they will reinforce the City of San Jose's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment.

This is just a summary of your obligations, for additional information please refer to the Discrimination and Harassment Policy, Section 1.01 of the City Policy Manual.

VIOLATIONS OF THE CODE OF ETHICS

In addition to any other penalty as provided by law, employees who violate the Code of Ethics will be subject to disciplinary action, up to and including termination. The violation of this Code of Ethics by a City official, elected or appointed, constitutes official misconduct. For additional information, please refer to Title 12 of the San Jose Municipal Code and the City Council Censure Policy.